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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/041,875	01/07/2002	Peter S. Mautino	MCT 01501	4951
5073	7590	08/14/2006	EXAMINER	
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			LE, MARK T	
			ART UNIT	PAPER NUMBER
			3617	

DATE MAILED: 08/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/041,875	MAUTINO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Mark T. Le	3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 2/13/06.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-6 and 10-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6 and 10-19 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

1. This communication is responsive to the IDS and RCE filed on February 13, 2006. It is found that the claims, as previously allowed, are not defined over at least a prior art cited in the IDS; therefore, the instant application is now reopen for examination. Any inconvenience to Applicant and his representative is regretted.
2. In claim 1, 13 and 15, line 3 of part (c), "said front face portion" should be corrected to read -- said pulling face portion --.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 10 and 12-17 are rejected under 35 U.S.C. 102(b) as being anticipated by British reference No. 19,963.

The British reference, Figures 3 and 4, shows a coupler provided with a coupler knuckle having all the features as recited in the instant claims, including tail section 15, hub section 3, pin hole for pin 4, pulling face section 9, a nose section located forwardly of section 9 and having cylindrical opening 30 therein, and transition section 7 extending toward each other as can be seen at 10. Note that the bearing surface area defined by at least a portion of pulling face section 9 and the nose section located forwardly of section 9 of the British reference is substantially flat in a vertical direction and substantially arcuate in a horizontal direction, as defined in the instant claimed.

Regarding the instant claimed step of retrofitting, as recited in the preamble of claim 15, it does not carry patentable weight because such step does not provide a clear structural distinction over the prior art structure.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over British reference No. 19,963.

The British reference is applied above.

Regarding the instant claimed hardness being at least about 40 Rockwell C, it would have been obvious to one skilled in the art, i.e. a designer in the field, to optimize the capacity of the coupler knuckle of the British reference by constructing the bearing

surface area thereof with an increased hardness so as to make it suitable for withstanding applications associated with higher load limits.

7. Claims 2-6 and 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over British reference No. 19,963 in view of Openchowski (US 6,129,227).

The British reference is applied above.

As to the height of the knuckle, it is noted for example in column 4, lines 9-11 of Openchowski; wherein, it is indicated that a standard knuckle height is eleven inches. Accordingly, it would have been obvious to one skilled in the art to size the knuckle height of the British reference to generally eleven inches so as to allow the knuckle to be used in conventional applications that requires standard size coupling devices.

Regarding the instant claimed dimensions, as recited in instant claims 2-4, note for example in Figure 4 of the British reference; wherein, the front face section comprises an upper section, a middle cutout section, and a lower section, which would have a combined height of 11 inches, as modified above. Since the combined height is 11 inches, at least one of the three individual sections, such as said upper section or said lower section, would have a height generally within the instant claimed dimensional ranges, as claimed. Note that said height of the individual sections is readable as the predetermined distance of the flat in the vertical direction, as broadly recited in the instant claims.

Regarding the instant claimed structure being made of cast steel, as recited in instant claims 5-6, note for example lines 20-22, column 7 of Openchowski; wherein, it indicates that standard knuckles are made of cast grade "E" steel alloy material;

therefore, it would have been obvious to one skilled in the art to cast the knuckle of the British reference with the same steel alloy material so as to achieve the expected strength thereof.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Le whose telephone number is 571-272-6682. The examiner can normally be reached on Mon-Fri (9-6), except day-off Wed.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Mark T. Le  
Primary Examiner  
Art Unit 3617

mle  
8/9/06